

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**MARYANNE L. MAYHEW,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 2:13CV61  
(The Honorable John Preston Bailey)**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**REPORT AND RECOMMENDATION/OPINION**

On August 29, 2013, Plaintiff, *pro se*, filed a complaint in this matter [Docket Entry 1]. On January 13, 2014, Defendant Commissioner of Social Security filed an answer to the complaint and a copy of the transcript of the administrative record in this matter [Docket Entries 15 and 16, respectively]. Plaintiff's motion for summary judgment and brief in support of her claim were due to be filed on or before February 12, 2014. L.R.Gen.P. 9.02(c). Plaintiff did not timely file her motion or brief. On February 28, 2014, the undersigned United States Magistrate Judge entered an order directing Plaintiff to file and serve her motion and brief in support of her claims on or before March 14, 2014 [Docket Entry 18]. L.R.Civ.P 9.02(c). Plaintiff was advised in said order that failure to file her motion for summary judgment and brief in support of her claims by that date would result in the undersigned entering a report and recommendation recommending to the District Judge that this case be dismissed for failure to prosecute in accord with the rules. A review of the docket shows that this Court's order of February 28, 2014, was received by Plaintiff, *via* certified mail. Plaintiff did not date the receipt when she signed for the certified mail; however, the Clerk received the signed certified mail receipt on March 7, 2014 [Docket Entry 19].

Upon review of the docket as of March 18, 2014, the undersigned finds Plaintiff has not filed a brief or motion in support of her claim.

### **RECOMMENDATION**

For the above reasons, the undersigned respectfully **RECOMMENDS** that the Plaintiff's complaint [Docket Entry 1] be **DISMISSED WITH PREJUDICE** for failure to prosecute and for failure to comply with the Court's order of February 28, 2014.

Any party may, within fourteen (14) days after being served with a copy of this report and recommendation, file with the Clerk of the Court written objections identifying the portions of the report and recommendation to which objection is made and the basis for such objection. A copy of such objections should also be submitted to the Honorable John Preston Bailey, United States District Judge. Failure to timely file objections to the report and recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such report and recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to send a copy of this report and recommendation to Plaintiff, *pro se*, by certified mail, return receipt requested, and to counsel of record.

DATED: March 18, 2014

*/s/ John S. Kaull*

JOHN S. KAULL  
UNITED STATES MAGISTRATE JUDGE